

1 Allan O. Cate, Esq. (SBN: 248526)
2 **CATE LEGAL GROUP**
3 7710 Balboa Avenue, Suite 316
4 San Diego, CA 92111
5 Tel: (858) 224-5865
6 Fax: (858) 228-9885

7 Attorney for Creditor,
8 Rosalind Alexander-Kasparik

9 **UNITED STATES BANKRUPTCY COURT**
10 **SOUTHERN DISTRICT OF NEW YORK**

11 In Re:

12 RESIDENTIAL CAPITAL, LLC, et al.,
13
14 Debtor.

Case No. 12-12020 (MG)

Chapter 11

Jointly Administered

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19 **NOTICE AND MOTION FOR RELIEF FROM STAY**
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22 **PLEASE TAKE NOTICE** that the Court will hold a hearing on creditor/movant
23 Rosalind Alexander-Kasparik's below Motion for Relief from Stay on **December 17, 2013 at**
24 **10:00 a.m. (ET)** before the Honorable Martin Glenn, at the United States Bankruptcy Court for
25 the Southern District of New York, Alexander Hamilton Courthouse, One Bowling Green, New
26 York, New York 10004-1408, Room 501, any opposition is due per the Bankruptcy Code and
27 applicable Local Rules.
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1 **COMES NOW** the Movant, Rosalind Alexander-Kasparik (“Movant”) by and through
2 her counsel of record, and moves to terminate the automatic stay in order to proceed with their
3 pre-petition claims, filed in the Superior Court of the State of California, San Diego against
4 GMAC Mortgage, LLC (erroneously sued as Ally Bank fka GMAC Mortgage) (“GMAC”). In
5 support of said motion, Movant states as follows:

6 1. On or about July 31, 2012, the Movant filed a civil lawsuit in the Superior Court
7 of the State of California, San Diego entitled *Rosalind Alexander-Kasparik v. Ally Bank, fka*
8 *GMAC Mortgage* (Case No.: 37-2012-00101531-CU-BC-CTL)(“Lawsuit”). A copy of the
9 Complaint and Summons are attached to the Declaration of Allan Cate, Exhibit A, attached
10 hereto.

11 2. The Movant brought claims against GMAC for illegally and unlawfully
12 proceeding with non-judicial foreclosure sale against her real property located at 1021 Scott
13 Street #149, San Diego, CA 92106 (“Subject Property”) on or about July 3, 2012. In addition to
14 seeking money damages, Movant is seeking to have the Court setaside the foreclosure sale.

15 3. On or about October 10, 2012, GMAC filed a Notice of Bankruptcy and
16 Suggestion of Automatic Stay in the Lawsuit. This filing has prevented the Lawsuit from
17 proceeding in the California Superior Court.

18 4. The pendency of the Movant’s lawsuit supports lifting the stay to the extent that
19 the Movant has properly asserted claims against GMAC.

20 5. The Movant will suffer harm if she is not permitted to proceed with her claims in
21 the Lawsuit.

22 6. The amount in controversy in the action is insignificant and inconsequential to the
23 debtor or the debtor’s estate. The resolution of Movant’s Lawsuit is de minimis compared to the
24 size of the debtor’s estate and the resolution of the Lawsuit should have no impact upon the
25 debtor’s reorganization.

1 WHEREFORE, the Movant, Rosalind Alexander-Kasparik, respectfully requests that this
2 Court lift the stay to permit all matters be heard in the above-referenced Lawsuit, now pending in
3 the Superior Court, State of California, San Diego.
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5 Dated: November 7, 2013

Respectfully submitted,
CATE LEGAL GROUP

6
7 /s/ Allan Cate
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9 Allan Cate (California Bar No. 248526)
10 CATE LEGAL GROUP
11 7710 Balboa Ave., Suite 316
12 San Diego, CA 92111
13 Tel: (858) 224-5865
14 Fax: (858) 228-9885
15 Email: allan@acatelaw.com
16 *Attorney for Movant*

17 **CERTIFICATE OF SERVICE**

18 I hereby certify that I have served a copy of the foregoing upon counsel of record for all
19 other parties to this action on this 7th day of November 2013.
20

21 Attorneys for GMAC Mortgage, LLC
22 Robert Grandy, Esq.
23 Severson & Werson
24 19100 Von Karman Avenue, Suite 700
25 Irvine, CA 92612

26 Attorneys for GMAC Mortgage, LLC
27 John B. Sullivan, Esq.
28 Severson & Werson
One Embarcadero Center, Suite 2600
San Francisco, CA 94111

1 Attorneys for Debtors and Debtors in Possession

2 Gary S. Lee
3 Larren M. Nashelsky
4 Lorenzo Marinuzzi
5 1290 Avenue of the Americas
6 New York, NY 10104

7 Counsel to the Examiner

8 Howard Seife
9 David M. LeMay
10 Robert J. Gayda
11 Marc B. Roitman
12 Chadbourne & Park LLP
13 30 Rockefeller Plaza
14 New York, NY 10112

15 Counsel for the Official Committee of Unsecured Creditors

16 Thomas Moers Mayer
17 Douglas H. Mannal
18 Kramer Levin Naftallis & Frankel, LLP
19 1177 Avenue of the Americas
20 New York, NY 10036

21 United States Trustee

22 Tracy Hope Davis
23 Office of the United States Trustee
24 201 Varick Street, Suite 1006
25 New York, NY 10004

26 /s/ Allan Cate

27 _____
28 Allan Cate